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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/817,466	04/02/2004	Jun Xu	CIS0213US	3179

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EXAMINER	
YIGDALL, MICHAEL J	
ART UNIT	**PAPER NUMBER**
2192	

MAIL DATE	DELIVERY MODE
12/02/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Advisory Action Before the Filing of an Appeal Brief	**Application No.** 10/817,466	**Applicant(s)** XU ET AL.	
	Examiner Michael J. Yigdall	**Art Unit** 2192	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 12 November 2008 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:
   a) ☐ The period for reply expires _____months from the mailing date of the final rejection.
   b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

   Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
   (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
   (b) ☐ They raise the issue of new matter (see NOTE below);
   (c) ☒ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
   (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

   NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).
4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
   The status of the claim(s) is (or will be) as follows:
   Claim(s) allowed: _____.
   Claim(s) objected to: _____.
   Claim(s) rejected: *1-39*.
   Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
12. ☐ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). _____
13. ☐ Other: _____.

/Michael J. Yigdall/
Examiner, Art Unit 2192

Continuation of 11.

Applicant's arguments have been fully considered but they are not persuasive.

Applicant contends that Marik does not allow a debugger program to be loaded and concludes that there is no selection of a debugger program to load (remarks, page 12). Specifically, Applicant argues that no loading is possible in Marik because the debugger program is already programmed into read-only memory (ROM) (remarks, page 12).

However, the examiner does not agree. The claims are given their broadest reasonable interpretation consistent with the specification. See MPEP § 2111. The term "load" recited in the claims is broadly and reasonably interpreted to mean "activate." Thus, Marik teaches "loading" the debugger program in terms of enabling or "activating" the debugger program (see, for example, column 8, lines 23-25). As noted in the Office action, the debugger program that is loaded or activated in Marik is implicitly "selected" for loading or activation.

Moreover, the examiner appreciates that the term "load" could also be interpreted to mean "transfer" or "store." Nonetheless, such "loading" of a debugger program is still possible in Marik. For example, Marik describes that the target system code 40 includes debugger routines that are "downloaded" to the system under test (see, for example, column 12, lines 13-18).

Applicant further contends that a combination of Marik and Fritz would change the principle of operation of each system (remarks, page 13). Specifically, Applicant argues, "Marik's use of interrupt lines directly into the device under test would be thwarted by the introduction of Fritz's hardware debug device between the PC Host and the device under test" (remarks, pages 13-14).

However, the examiner does not agree. Combining the teachings of references does not involve an ability to combine their specific structures. See In re Nievelt, 482 F.2d 965, 179 USPQ 224, 226 (CCPA 1973). As set forth in the Office action, the teachings of Fritz are relied upon to suggest a test script. Incorporating a test script into the system of Marik would not change its principle of operation. Thus, the combined teachings of the references would have suggested the claimed subject matter to those of ordinary skill in the art.

Accordingly, for the above reasons, claims 1-39 stand finally rejected under 35 U.S.C. § 103(a) as set forth in the Office action mailed on September 12, 2008.

/MY/